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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,975	03/11/2004	Josephus Hubertus Cornelius Maria Deckers	146349-1	5007
23413	7590	02/16/2006	EXAMINER	
CANTOR COLBURN, LLP 55 GRIFFIN ROAD SOUTH BLOOMFIELD, CT 06002			CHEUNG, WILLIAM K	
			ART UNIT	PAPER NUMBER
			1713	
DATE MAILED: 02/16/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/797,975

Applicant(s)

MARIA DEKKERS ET AL.

Examiner

William K. Cheung

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 011706, 122705.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: 080805, 042604.

### **DETAILED ACTION**

1. Applicant's affirmed election of Group I invention, claims 1-19, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Therefore, in view of lack of traversal to restriction requirement set forth from Response to Restriction Requirement, the restriction set forth by the examiner is deemed proper and is therefore made Final.
2. The examiner acknowledges the election of polycarbonate as part of the species restriction requirement.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
4. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hagiwara et al. (US 4,775,585) in view of Valyi (US 5,939,153), and further in view of Ando et al. (US 5,064,599).

*The invention of claims 1-19 relates to a **method of making a shaped article**, comprising: **thermoforming an article** comprising an **exterior surface** comprising an **inorganic biocidal agent** and a **first thermoplastic resin** to form the shaped article, wherein the shaped article has improved biocidal activity compared to the unshaped article.*

Hagiwara et al. (col. 1, line 15-18; col. 4, line 44-68) disclose a process of making a shape article comprising molding an article comprising an exterior surface comprising an inorganic biocidal agent. In view of the substantially identical composition disclosed in Hagiwara et al. and the composition as claimed, the examiner has a reasonable basis to believe that the claimed "shaped article has improved biocidal activity compared to the unshaped article" is inherently possessed in Hagiwara et al. If applicants disagree,

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applicants must recognize that Ando et al. (abstract) clearly indicate that upon heating, the low melting component of the resins spreads to cause more zeolite particles to be exposed, which yields higher antibacterial activity on the substrate.

The difference between the invention of claims 1-19 and Hagiwara et al. is that Hagiwara et al. are silent that the molded article are prepared by a thermoforming process.

However, Hagiwara et al. (col. 9, line 49-54) clearly disclose that the disclosed process is suitable for making containers. Since plastic containers are typically prepared by a thermoforming process as indicated in Valyi (abstract; Figure 1-5), motivated by the expectation of success of preparing a container containing inorganic biocidal agent, it would have been obvious to one of ordinary skill in art to recognize the value of thermoforming a process of choice for making a container or a bottle as taught in Valyi to obtain the invention of claims 1-19.

Regarding the biocidal activities or the concentration of the biocides of claims 3-11, 17-19, in view of the substantially identical composition disclosed in Hagiwara et al. and the composition as claimed, the examiner has a reasonable basis to believe that these claimed features are inherently possessed in Hagiwara et al.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William K. Cheung whose telephone number is (571) 272-1097. The examiner can normally be reached on Monday-Friday 9:00AM to 2:00PM; 4:00PM to 8:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David WU can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William K. Cheung, Ph. D.

Primary Examiner

February 10, 2006

**WILLIAM K. CHEUNG  
PRIMARY EXAMINER**